

REMARKS

Entry of the foregoing and reexamination and reconsideration of the subject application, as amended, pursuant to and consistent with 37 C.F.R. § 1.112, are respectfully requested in light of the following remarks:

Claims 1-24 and 31 are now in this application. Claims 25-30 have been cancelled, without prejudice or disclaimer. Claim 31 is newly added.

In response to the seven-way restriction requirement, applicants hereby elect, without traverse, the Group I invention drawn to the stable invert emulsion and cosmetic/dermatological composition comprising the stable invert emulsion. Claims 1-24 and new Claim 31 read on the elected Group I invention.

Claims 25-30, drawn to the non-elected inventions of Groups II-VII, have been cancelled in complete compliance with the restriction requirement. Applicants of course reserve the right to file one or more divisional applications directed to the cancelled subject matter.

In response to the requirement for election of species:

(1) as a single disclosed species of DHEA, a chemical precursor of DHEA of formula (1) or a biological precursor of DHEA of formula (1), applicants hereby elect, with traverse, the single disclosed species which is DHEA, at least Claims 1-12, 19-24 and 31 reading on this elected species;

(2) as a single disclosed species of a dispersed hydrophilic phase, applicants hereby elect, with traverse, a glycolic dispersed hydrophilic phase comprising propylene glycol, all of Claims 1-24 and 31 reading on this elected species; and

(3) as a single disclosed species of an emulsifier, applicants hereby elect, with traverse, the single disclosed species which is a silicone emulsifier comprising alkyl methicone copolyol, all of Claims 1-24 and 31 reading on this elected species.

Newly added Claim 31 reads specifically on all of the species elected above. It is noted that the elected active ingredient is also specifically claimed in original Claim 12; that the elected hydrophilic phase is specifically encompassed by original Claim 7; and that the elected silicon emulsifier is specifically disclosed in paragraphs [0060] to [0063] and in the Examples of the as-filed specification.

For the record, it is pointed out that although DHEA itself is elected herein in (1) above, the Examiner has actually required election of an active ingredient from a group that does not include all of the active ingredients of Claim 1. For example, Claim 14 names specific DHEA precursors which are not encompassed by formula (1) and Claim 16 names specific DHEA derivatives which are not encompassed by formula (1). Thus, any election of species of active ingredient should be able to be made from a larger group than that specified by the Examiner.

The election of species requirements are traversed because election of species normally presupposes that no generic claim is allowable, and no art has been adduced which would militate against the allowance of a generic claim herein, for example, Claim 1 or 2 or 8 or 10 or other claim considered by the Examiner to be generic. Reconsideration and withdrawal of the election of species requirements are believed to be in order and are earnestly solicited.

It is applicants' understanding that if the invention limited to the elected species is found patentable, the Examiner will expand his search to other species and that upon allowance of a generic claim, applicant will be entitled to consideration

of claims to additional species which depend from or require all of the limitations of the generic claim.

OTHER MATTERS

Applicants respectfully point out that a certified copy of their French priority document (FR 01/10398 of August 2, 2001) was filed herein on January 30, 2004, together with a Claim for Foreign Priority. Acknowledgement is respectfully requested.

An Information Disclosure Statement is filed concurrently herewith.

An early Action on the merits is believed to be in order and is earnestly solicited.

Respectfully submitted,

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Date: October 9, 2007

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